



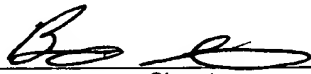
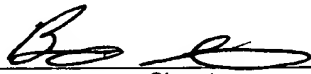
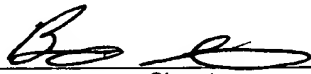
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PTO/SB/33 (07-09)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) SONYJP 3.3-731										
	Application Number 09/869,816-Conf. #1346	Filed July 3, 2001										
	First Named Inventor Tatsuya Inokuchi and Yoichiro Sako											
	Art Unit 2439	Examiner R. Baum										
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table><tr><td><input type="checkbox"/> applicant /inventor.</td><td rowspan="2"> Signature</td></tr><tr><td><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td></tr><tr><td><input checked="" type="checkbox"/> attorney or agent of record. Registration number 38,580</td><td>Bruno Polito Typed or printed name</td></tr><tr><td><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</td><td>(908) 518-6386 Telephone number</td></tr><tr><td></td><td>January 28, 2010 Date</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of _____ forms are submitted.</p>				<input type="checkbox"/> applicant /inventor.	 Signature	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	<input checked="" type="checkbox"/> attorney or agent of record. Registration number 38,580	Bruno Polito Typed or printed name	<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____	(908) 518-6386 Telephone number		January 28, 2010 Date
<input type="checkbox"/> applicant /inventor.	 Signature											
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<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____	(908) 518-6386 Telephone number											
	January 28, 2010 Date											

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: MS AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: January 28, 2010

Signature:  (Bruno Polito)



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Dated: January 28, 2010

Signature:


(Bruno Polito)

EXPEDITED PROCEDURE
Group Art Unit: 2439
SONYJP 3.3-731

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Inokuchi et al.

Application No.: 09/869,816

Group Art Unit: 2439

Filed: July 3, 2001

Examiner: R. Baum

For: DATA DECODING APPARATUS AND
METHOD, CHARGE INFORMATION
PROCESSING APPARATUS AND METHOD,
DATA REPRODUCING APPARATUS AND
METHOD, ELECTRONIC MONEY,
ELECTRONIC USE RIGHT, AND TERMINAL
APPARATUS

PRE-APPEAL BRIEF REMARKS

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

These remarks are submitted with a Pre-Appeal Brief Request for Review and in response to the official action dated September 1, 2009 and the Advisory Action dated December 4, 2009.

Claims 1-11, 49-63, 87-92, and 94-96 were pending in the application. In the official action, claims 1-11, 49-63, 87-92, and 94-96 were rejected. Claims 1-11, 49-63, and 87-92, and 94-96 thus remain for consideration.

Applicants submit that claims 1-11, 49-63, 87-92, and 94-96 are in condition for allowance and request withdrawal of the rejections in light of the following remarks.

§102 Rejections

Claims 1-11, 49-63, 87-92, and 94-96 were rejected under 35 U.S.C. §102(b) as being anticipated by Daggar (U.S. Patent No. 5,748,737).

Applicants submit that independent claims 1, 11, and 49 are patentable over Daggar.

Applicants' invention as recited in claims 1, 11, and 49 is directed toward an apparatus and method for reproducing contents data which includes at least one of audio data and video data. Each of claims recites that "[a memory stores] at least one of information concerning a number of occurrences in which said contents is reproduced and information concerning an amount of time during which said contents is reproduced," and that "said information concerning a number of occurrences in which said contents is reproduced and/or said information concerning an amount of time during which said contents is reproduced [is] updated upon reproduction of contents." Supporting disclosure for the quoted recitations can be found in the specification at, for example, page 17, line 26 - page 18, line 14.

Daggar does not disclose the quoted recitations. Accordingly, Applicants believe that claims 1, 11, and 49 are patentable over Daggar on at least this basis. More particularly, Daggar does not disclose the reproduction of audio data or video data, let alone the storage of information concerning a number of occurrences or amount of time in which audio data or video data is reproduced, and let alone updating such information.

In the official action, the Examiner offers only a general assertion that Daggar discloses the quoted recitations, and provides no meaningful citations to the Daggar in support of his assertion. Rather, the Examiner cites to the entirety of

Daggar's Abstract, Field of Invention, Background of Invention, Summary of Invention, and Description of the Preferred Embodiment in support of his assertion (see e.g., official action page 7, line 4 - page 8, line 20), which provides Applicants with no guidance for identifying the relevant portions of Daggar.

Nevertheless, Applicants note that the Examiner does provide meaningful citations in connection with his assertion that Daggar discloses the reproduction of audio data or video data. In particular, the Examiner cites the following portions in an attempt to support his assertion that Daggar discloses the reproduction of audio data or video data: col. 11, lines 22-28; column 13, line 65-col. 14, line 7; col. 8, lines 31-43; col. 7, line 32-col. 8, line 30; and col. 20, lines 11-19 (see e.g., official action page 4, lines 1-6).

However, the portions of Daggar cited by the Examiner in connection with his assertion that Daggar discloses the reproduction of audio data or video data do not disclose the reproduction of audio data or video data.

Regarding col. 11, lines 22-28, this portion discloses that a display may be employed and that voice recognition may be employed. No mention is made of reproducing video data for purposes of display, or of reproducing audio data as part of performing voice recognition.

Regarding col. 13, line 65-col. 14, line 7, this portion discloses that a "photo" could "be included on the generic multimedia card." No mention is made of reproducing video data.

Regarding col. 8, lines 31-43, this portion discloses that "digital card transactions" can be "performed using any telephone," and that multiple "media interfaces" may be provided. The portion is silent as to the reproduction of audio data or video data.

Regarding col. 7, line 32-col. 8, line 30, Applicants are unable to discern any mention of the reproduction of audio data or video data.

Regarding col. 20, lines 11-19, this portion discloses "payment via any media interface ... (e.g. payment displayed and communicated verbally ...)." However, there is no mention of the reproduction of audio data or video data in connection with such payment.

In view of the above, Applicants submit that Daggar does not disclose the reproduction of audio data or video data, let alone the storage of information concerning a number of occurrences or amount of time in which audio data or video data is reproduced. Further, Daggar does not disclose updating information concerning a number of occurrences or amount of time in which audio data or video data is reproduced. Therefore, Applicants believe that the independent claims (claims 1, 11, and 49) are patentable over Daggar on at least this basis.

Further, since dependent claims inherit the limitations of their respective base claims, Applicants believe that dependent claims 2-10, 50-63, 87-92, and 94-96 are patentable over Daggar for at least the same reasons as discussed in connection with the independent claims.

Regarding the comments provided by the Examiner in the Advisory Action, Applicants believe that such comments may be characterized as being based on three primary assertions: (1) that a disclosure of updating a still image is a disclosure of the reproduction of video data; (2) that a disclosure of performing voice recognition is a disclosure of the reproduction of audio data; and (3) that a disclosure of communicating over an audio information channel is a disclosure of the reproduction of audio data.

In reply, Applicants note: (1) that the processing of image data is distinct from the processing of video data, as

evidenced by the different standards that have developed around the two types of data (JPEG and MPEG), and more generally, that the updating of data is distinct from the reproduction of data; (2) that recognizing a voice does not necessarily involve the reproduction of audio data (e.g., recognition may be based on comparing an incoming voice signal to synthesized audio data rather than reproduced audio data); and (3) that data communicated over an audio channel is not necessarily reproduced audio data (e.g., real time communication over a phone line does not involve reproduction of audio data).


Applicants respectfully submit that all of the claims now pending in the application are in condition for allowance, which action is earnestly solicited. If any issues remain, or if the panel has any suggestions, the panel is invited to telephone the undersigned at (908) 654-5000.

The panel is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account No. 12-1095.

The panel's consideration of this matter is gratefully acknowledged.

Dated: January 28, 2010

Respectfully submitted,

By 
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